

### REMARKS

Applicant requests favorable reconsideration and allowance of the above-identified application in view of the above amendments and following remarks.

Claims 1 through 17 having been previously cancelled, Claims 18 through 28 are now presented for examination. Claim 18 has been further amended to define still more clearly what Applicant regards as his invention, in terms which distinguish over the art of record. Claims 19-28 have been added to assure Applicant of the full measure of protection to which he deems himself entitled. Claim 18 the only independent claim.

In the Office Action mailed June 2, 2004, cancelled Claims 7-12 and 14-17 were rejected under 35 U.S.C. § 102 as being anticipated by European Patent Application No. 0 902 304 (Nakai, et al, cancelled Claim 13 was rejected under 35 U.S.C. § 103 as being unpatentable over Nakai, et al. in view of U.S. Patent No. 5,995,279 (Ogino, et al.) and Claim 18 was objected to as being dependent on rejected base claim, but was indicated as allowable if rewritten in independent form. Claim 18 amended in the Amendment filed August 6, 2004 has been further amended to clarify the features of the invention.

Independent Claim 18 as amended by this supplemental amendment is directed to a diffraction optical element in which plural diffraction grating formed of at least two kinds of materials having different dispersions are laminated. In the diffraction optical element, there is a first diffraction grating having an imaginary surface including tips of grating portions that is a curved surface and a second diffraction grating arranged with an air layer between the first diffraction grating and the second diffraction grating in which an imaginary surface including tips of grating portions of the second diffraction grating is a curved surface. The pitches at positions

of tips of corresponding grating portions of the first and second diffraction gratings are equal over the area of use.

In Claim 18 as currently amended the phrase "an air layer between said first diffraction grating and said second diffraction grating" replaces the recitations of "an interval between said first diffraction grating and said second diffraction grating" and "and wherein said first and second diffraction gratings are disposed via an air layer". Further the phrase "a plurality of diffraction gratings formed of at least two kinds of materials having different dispersions" in Claim 18 as currently amended replaces the separate recitations of a first diffraction grating "which is formed with a material of a predetermined dispersion" and a second diffraction grating "which is formed with a material of a dispersion different from that of said first diffraction grating". It is believed that the foregoing changes further clarify the invention defined in Claim 18 and do not change its scope. Accordingly, Applicant submits that independent Claim 18 as currently amended is now allowable.

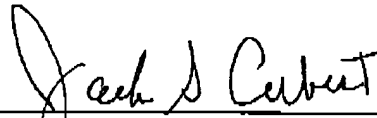
Claims 19 through 28 depending from Claim 18 as currently amended correspond to cancelled Claims 8 through 17 and recite features that are shown in the drawings and are disclosed in the specification as filed. No new matter is believed to have been added.

For the foregoing reasons, Applicants submit that the present invention, as recited in independent Claim 18, is patentably defined over the cited art.

Dependent claims 19-28, also should be deemed allowable, in their own right, for defining other patentable features of the present invention in addition to those recited in independent Claim 18. Further individual consideration of these dependent claims is requested.

Applicant's attorney, Justin J. Oliver, may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,



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